

ENTERED

November 03, 2016

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**SHELBY BROWN, Individually
and on behalf of others similarly
situated,**

Plaintiff,

V.

**PRODUCTION TESTING SERVICES,
INC. and ROBERT A. HOFF,**

Defendants.

§§ 87(2)(b), 87(4-b), 87(4-g), 87(4-h)

JURY DEMANDED

CIVIL ACTION NO. 4:16-cv-01152

**ORDER GRANTING PLAINTIFF'S AMENDED UNOPPOSED MOTION FOR
CONDITIONAL CERTIFICATION**

For the reasons set forth in an Opinion issued this date, IT IS ORDERED, ADJUDGED, and DECREED that Plaintiffs' Amended Unopposed Motion for Conditional Class Certification is GRANTED as follows:

1. Pursuant to the 29 U.S.C. § 216(b) (“The Fair Labor Standards Act”), the Court conditionally certifies the following class, represented by Shelby Brown, on the issue of liability:

All current and former field operators of Defendant Production Testing Services, Inc. and/or predecessor companies of said entity, employed as LBOs (Limited Benefit Only operators) paid a day rate, who performed surface well operations, including frack flowback and exploration well testing, or similar job positions that included similar job duties, from April 28, 2013, through the present.

2. IT IS ORDERED, ADJUDGED, and DECREED that Plaintiffs shall be granted a 30 day opt-in period and that Defendants shall produce to Plaintiff's counsel, within ten (10) days of entry of the Court's Order, a list in electronic format, of all individuals who worked for Defendants as field operators during the past three years, including each field worker's (1) name;

(2) job title; (3) last known address; (4) telephone number; (5) email address, if available; (6) dates of employment; and (7) location of employment.

3. The Court finds that the proposed Notice and Consent forms attached hereto as Exhibits A and B, respectively, are accurate, timely, and informative. Exhibits A and B shall be sent via first class U.S. mail and, where possible, via email, to all field operators who worked as LBOs for Defendants from April 28, 2013 to the present.

4. Within five (5) business days after receiving from Defendants' counsel the information required in Paragraph 3, above Plaintiff's counsel shall transmit to Class Members via first class mail and via email a copy of Exhibit A and Exhibit B to all persons contained on the list. Plaintiff's counsel shall also include a self-addressed stamped envelope in the mailing.

5. The Class Members shall have 30 days from the date of the mailing of the "Notice" to file their Notice of Consent opting-in to this lawsuit as plaintiffs, unless good cause can be shown as to why the consent was not filed prior to the deadline.

6. Further, Defendants are hereby prohibited from communicating, directly or indirectly, with the Class about any matters which touch or concern the settlement of any outstanding wage claims or other matters related to this suit during the opt-in period. This order shall not restrict Defendants from discussing with any current employee matters that arise in the normal course of business, nor will it apply to Class Members who have not opted into the lawsuit after the deadline for opting-in has passed.

The Clerk shall enter this Order and provide a copy to all parties.

Signed on this the 2nd day of November, 2016, at Houston, Texas

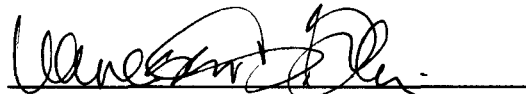

VANESSA D. GILMORE
UNITED STATES DISTRICT JUDGE

EXHIBIT “A”

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**SHELBY BROWN, Individually
and on behalf of others similarly
situated,**

Plaintiff,

v.

**PRODUCTION TESTING SERVICES,
INC. and ROBERT A. HOFF,**

Defendants.

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## JURY DEMANDED

**CIVIL ACTION NO. 4:16-cv-01152**

**NOTICE OF PENDANCY OF COLLECTIVE ACTION LAWSUIT AGAINST  
PRODUCTION TESTING SERVICES, INC.**

This notice is being sent to all people who work or have worked for Production Testing Services, Inc. ("PTS") as current and former field operators employed as LBOs (Limited Benefit Only operators) paid by a day rate, who performed surface well operations, including frack flowback and exploration well testing, or similar job positions that included similar job duties, from April 28, 2013, through the present.

## Introduction

The purpose of this notice is: (1) to tell you about a lawsuit seeking to recover unpaid overtime compensation under the Fair Labor Standards Act (“FLSA”) in which you may be similarly situated to the plaintiff Shelby Brown; and (2) to instruct you on the procedure that you need to follow if you want to join this lawsuit. This notice is not intended to express any opinion by the Court as to the merit of any claim or defense raised by the parties to the lawsuit.

## Description of the Lawsuit

Plaintiff Brown filed this lawsuit on behalf of himself and other people who work or have worked for Defendant PTS as field operators, or similar job positions that included similar job duties, from at least April 28, 2013 through the present. Shelby Brown claims that PTS failed to pay them overtime when they worked more than forty hours in one work week, and under Alaskan State Law, failed to pay employees overtime compensation when employees worked over eight hours a day. Shelby Brown seeks to recover the overtime compensation for themselves and other similarly situated employees that he claims PTS owes. PTS denies any wrongdoing and it contests all claims that have been made against it in this lawsuit.

### **The People Affected by this Lawsuit**

Plaintiff Shelby Brown is proceeding with this lawsuit on behalf of himself and all other people who work or have worked as a field operator of Defendant Production Testing Services, Inc. and/or predecessor companies of said entity, as an LBO (Limited Benefit Only operators) paid by a day rate, performing surface well operations, including frack flowback and exploration well testing, or similar job positions that included similar job duties, from April 28, 2013, through the present.

### **Your Right to Participate in this Lawsuit**

If you now work or have worked as a field operator of Defendant Production Testing Services, Inc. and/or predecessor companies of said entity, as an LBO (Limited Benefit Only operators) paid by a day rate, performing surface well operations, including frack flowback and exploration well testing, or similar job positions that included similar job duties, from April 28, 2013, through the present, you have the right to join this lawsuit. To do so, complete the "Consent to Join" form enclosed with this notice, sign the form and mail it in the enclosed postage pre-paid envelope to: PTS Overtime Litigation Administrator, Law Offices of John David Hart, 201 Main Street, Suite 1720, Fort Worth, TX 76102. If your completed "Consent to Join" form is not post-marked on or before [30 days after the mailing date], you will not be able to participate in this lawsuit. Whether or not you join this lawsuit is entirely your decision.

### **Legal Effect of Joining This Lawsuit**

If you choose to join this lawsuit, you will be bound by any decision of this Court, whether it is favorable or unfavorable. While this lawsuit is proceeding, you may be required to respond to written questions, produce documents, attend your own deposition or attend a trial in Houston, Texas. By completing and timely returning the Consent to Join form enclosed with this notice, you are agreeing to have Plaintiff Shelby Brown act as your agent to make decisions on your behalf concerning this lawsuit and, unless you hire your own attorney, to allow his attorney to prosecute this case on your behalf. The attorney for Plaintiff is being paid on a contingent-fee basis, which means that if there is no recovery, the attorneys will not be entitled to any attorneys' fees. Litigation expenses are paid during the litigation by Plaintiff's attorney. If the Plaintiff prevails, the Court will decide the amount of fees and expenses to be paid to their attorney. The Court may order that attorneys' fees and expenses be paid from the money judgment entered in favor of plaintiff that they be paid separately by PTS or some combination of the two.

### **Legal Effect of Not Joining This Lawsuit**

If you choose not to join this lawsuit, you will not be affected by any judgment rendered in this lawsuit, whether it is favorable or unfavorable, and you are free to file your own lawsuit under the FLSA.

**No Retaliation Permitted.**

If you choose to join this lawsuit, Federal Law prohibits PTS from firing you or otherwise discriminating against you because of that choice. You are entitled to enforce your rights under the FLSA.

**Plaintiff's Counsel**

If you choose to join this lawsuit and agree to be represented by Plaintiff Shelby Brown's attorney. The following person will be your attorney: John David Hart, The Law Offices of John David Hart, 201 Main Street, Suite 1720, Fort Worth, Texas, 76102; Telephone 1-800-247-1623; johnhart@hartlaw.com) As noted above, if you do not want to be represented by the attorney for Shelby Brown, you may hire your own attorney at your expense.

**You are allowed to contact Plaintiff's attorney to ask questions about the lawsuit.**

**Defendant's Counsel**

PTS is represented by: Jessica Glatzer Mason, Gardere Wynne Sewell LLP, 1000 Louisiana Street, Suite 2000, Houston, Texas 77002

**Please do not ask Defendant's attorneys for their advice or opinion on whether you should join this lawsuit because they cannot give it to you.**

You are also free to consult the files for this case, which are located in the Clerk's Office of the United States District Court for the Southern District of Texas, United States Courthouse, 515 Rusk Avenue, Houston, Texas 77002.

**PLEASE DO NOT CONTACT THE JUDGE OR THE COURT CLERK WITH QUESTIONS ABOUT THIS LAWSUIT BECAUSE THEY CANNOT ANSWER THEM.**

Dated: \_\_\_\_\_

## **EXHIBIT “B”**

**CONSENT TO JOIN COLLECTIVE ACTION – OPT-IN CONSENT FORM**

**Pursuant to the Fair Labor Standards Act, 29 U.S.C. § 216(b)**

***Shelby Brown, individually and on behalf of others similarly situated, v. Production Testing Services, Inc. and Robert A. Hoff***

1. I consent and agree to pursue my claims under the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, et seq., and my Alaska Wage and Hour Act claim against my current/former employer – Production Testing Services, Inc. and the other named defendant-- in connection with the above referenced lawsuit.

2. During the past three years, there were occasions when I worked as an LBO (Limited Benefit Only employee) more than 40 hours in a week, or more than 8 hours in a day, for my current/past employer as a field operator, or in a similar position and was paid on a day rate. I did not receive overtime compensation for those hours.

3. I understand this lawsuit is brought under the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, et seq. I hereby consent, agree, and opt-in to become a Plaintiff herein and be bound to any judgment by the Court or settlement of any action.

4. I hereby designate John David Hart to represent me for all purposes in this action.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_